



Worker Safety and Health and Price-Anderson Enforcement Overview

Kathy McCarty
Acting, Chief of Staff
Office of Enforcement

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Enforcement Program / Process Overview



- Statutory background
- Policy and guidance
- Enforceable regulations
- Severity levels and Penalties
- Noncompliance Reporting Expectations
- Summary



Price-Anderson Enforcement Overview



Statutory Background

- **Price-Anderson Act (1957) provided prompt compensation for a nuclear incident**
 - Provided broad financial coverage for damage, injury, and costs of evacuation
- **Price-Anderson Amendments Act (1988)**
 - Extended indemnification for 15 years and required DOE to establish and enforce nuclear safety rules
- **Incorporated as Section 234A of the Atomic Energy Act**



Price-Anderson Enforcement Overview



Statutory Background (cont'd)

- 10 C.F.R. Part 820, *Procedural Rules for DOE Nuclear Activities*, published August 1993
- Appendix A provides General Statement of Enforcement Policy



Price-Anderson Enforcement Overview



■ Enforceable Nuclear Safety Regulations

- 10 C.F.R. 830, *Nuclear Safety Management*
 - Subpart A: *Quality Assurance Requirements*
 - Subpart B: *Safety Basis Requirements*
- 10 C.F.R. 835, *Occupational Radiation Protection*
- 10 C.F.R. 820.11, *Information Requirements*
- 10 C.F.R. 708, *DOE Contractor Employee Protection Program*



Civil Penalties



Price-Anderson / Nuclear Safety

- **Level I \$150,000**

(Violations of nuclear safety requirements which involve actual or high potential for adverse impact on the safety of the public or workers at DOE facilities.)

- **Level II \$ 75,000**

(Violations represent a significant lack of attention or carelessness toward responsibilities of DOE contractors for the protection of public or worker safety which could, if uncorrected, potentially lead to an adverse impact on public or worker safety at DOE facilities.)

- **Level III \$ 15,000**

(Violations are less serious, but are of more than minor concern: i.e., if left uncorrected, they could lead to a more serious concern.)

Note: Maximum Civil Penalty Per Violation Per Day



Worker Safety and Health Enforcement Overview



Statutory Background

- Bob Stump National Defense Authorization Act for FY 2003
- Required DOE to promulgate rules to provide a level of protection “substantially equivalent to the level of protection currently provided to such workers at [DOE] facilities”
- Section 234C to the Atomic Energy Act



Worker Safety and Health Enforcement Overview



■ Enforceable Worker Safety and Health Regulations

- 10 C.F.R. 851, *Worker Safety and Health Program*
 - Adopted the requirements of DOE Order 440.1A
- 10 C.F.R. 850, *Chronic Beryllium Disease Prevention Program*
 - Published December 1999



Enforcement Overview Worker Safety and Health



- **Enforceable Worker Safety and Health Regulations**
 - 29 C.F.R. Part 1910, *Occupational Safety and Health Standards*
 - 29 C.F.R. Part 1926, *Safety and Health Regulations for Construction*
 - 29 C.F.R. Part 1904, sections on Injury and Illness Reporting



Enforcement Overview Worker Safety and Health



- **Additional Enforceable Worker Safety and Health Requirements**
 - NFPA 70, *National Electric Code*, and 70E, *Standard for Electrical Safety in the Workplace*
 - Specified ANSI Standards and Applicable NFPA Standards
 - DOE Manual 231.1-1A, *Environment, Safety and Health Reporting Manual*
 - DOE Manual 440.1-1A, *DOE Explosives Safety Manual*
 - DOE Technical Standard 1167, *DOE Respirator Acceptance Program for Supplied-air Suits*



Civil Penalties

Worker Safety and Health



- **Level I \$75,000**

(A potential that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations or processes which have been adopted or are in use in the place of employment.)

- **Level II \$ 37,500**

(The most serious injury or illness that would potentially result from a hazardous condition cannot reasonably be expected to cause death or serious physical harm to employees but does have a direct relationship to their safety and health.)

- **De minimus**

(Deviation from the requirement of a standard that has no direct or immediate relationship to safety or health.)

Note: Maximum Civil Penalty Per Violation Per Day



Sources of Noncompliances



- **Typical sources include:**
 - Events
 - ORPS and injury reports (CAIRS, OSHA logs)
 - Accident investigations
 - Nonconformance reports
 - Radiological deficiency reports
 - Employee concerns
 - Self-assessments, corporate assessments
 - External assessments (site/program office, HSS, IG, GAO, DNFSB)



Self-Reporting of Noncompliances



- **Noncompliance Tracking System (NTS)**
- **Reporting is Voluntary**
- **Self-identification, reporting, and correction provide for discretion and mitigation**



Noncompliance Reporting Thresholds



- **NTS Thresholds (Worker Safety and Health)**
 - Table A-1 Noncompliances Associated with Occurrences
 - Table A-2 Management Issue Noncompliances and Other Significant Conditions
- **NTS Thresholds (Nuclear Safety)**
 - Table B-1 Noncompliances Associated with Occurrences
 - Table B-2 Management Issue Noncompliances

Tables can be found in the ***Enforcement Process Overview*** and on the Office of Enforcement home page



Reporting Thresholds Tables A-1 and B-1



- **Tables A-1 and B-1 thresholds based on Occurrence Reporting (ORPS) categories**



Reporting Thresholds Tables A-2 and B-2



- **Table A-2 and B-2 thresholds involve the following deficiencies:**
 - Programmatic Issues
 - Repetitive Issues
 - Intentional Violation or Misrepresentation
 - Retaliation / Reprisals
 - Other Significant Conditions (WSH)



Reporting Thresholds

Tables A-2 and B-2 (*cont'd*)



- **Programmatic**

Occurrence of related (but not identical) noncompliance in a program area. Generally involves some weakness in administrative or management controls. Requires evaluation of deficiencies on a site wide basis.

- **Repetitive Issues**

Same or closely similar noncompliance continues to occur, indicating corrective actions have not been effective.



Basic Reporting Criteria



- **Is there a regulatory noncompliance?**
- **Does the event or condition meet a reporting threshold?**
- **If the answer to both questions is YES, the noncompliance is NTS reportable.**



Noncompliance Reporting Expectations



- **Meet or Exceed Thresholds**
 - Report to NTS

- **Below Thresholds**
 - “Report” to local issue tracking system (or centralized tracking system)
 - System expected to provide indication of items as regulatory noncompliances



Common Noncompliance Screening Weaknesses



- **Failure to evaluate all sources of potential noncompliances (e.g., assessments, CAIRS reports, employee concerns)**
- **Inappropriate determination that a problem is not a regulatory noncompliance due to:**
 - Low safety significance
 - Isolated event/condition (“but our program is compliant”)
 - Immediate corrective actions



Program / Process Summary



- **Utilize performance information from a number of sources**
- **Pursue most significant and egregious cases**
- **Generally use discretion for issues that are self-identified and effectively resolved**
- **Maximize lessons-learned**



Program / Process Summary (cont'd)



- **Mitigation of penalties for timely identification and reporting and for appropriate corrective actions**
- **Escalation of severity level or penalty**
- **Contractor review/adjudication process**



Program / Process Summary (cont'd)



- **Application of mitigation/escalation factors –**
 - **Prompt identification and reporting by contractor (up to 50% decrease)**
 - **Timeliness and effectiveness of corrective actions (can decrease or increase up to 50%)**



Common Program Elements



- **Common to all three enforcement areas:**
 - Noncompliance identification and evaluation
 - Enforcement philosophy of contractor self-identification, reporting, and correction of noncompliances
 - Influencing factors for case selection and evaluation
 - Investigation
 - Enforcement conference
 - Enforcement outcome
 - NNSA Authorities



Program Differences



■ Notable Differences

- Voluntary Reporting into NTS; mandatory reporting into SSIMS
- Source documents for requirements (rules versus DOE directives or NNSA Policies)
- Severity Levels (2 or 3) and Base Civil Penalty Values
- Worker Safety cannot have both a civil penalty and contract fee reduction
- Consent Orders (PAAA, WSH) versus Settlement Agreements (Security)
- Special Report Orders (Price-Anderson Enforcement)



More Information



- Respective enforcement policies define civil penalty severity levels and amounts
 - 10 CFR 820, Appendix A
 - 10 CFR 824, Appendix A
 - 10 CFR 851, Appendix B
- The *Enforcement Process Overview* provides detailed information on program approach and implementation (at http://www.hss.energy.gov/enforce/Final_EPO_June_2009_v4.pdf)
- Enforcement Program Overview on CD